

AMENDED IN ASSEMBLY APRIL 17, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2696

Introduced by Assembly Member Aanestad

February 22, 2002

An act to amend Section 12657 of, and to add Section 12670.81 to, the Water Code, relating to water, *making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2696, as amended, Aanestad. Flood control.

Existing law provides for state cooperation with the federal government in the construction of various flood control projects.

This bill would adopt and authorize the Rock Creek-Keefer Slough Flood Control Project in Butte County, at an estimated cost to the state of the sum that may be appropriated by the Legislature for state cooperation, upon the recommendation and advice of the Reclamation Board. The bill would authorize the agencies that are parties to the project to carry out the project and to provide assurances satisfactory to the Secretary of the Army that the nonfederal cooperation required by federal law will be furnished in connection with the project. The bill would, to the extent funds are appropriated for purposes of the project, require the Reclamation Board to pay 70% of certain nonfederal costs of the project.

The bill would appropriate \$364,500 from the General Fund to the Department of Water Resources to pay the nonfederal share of the feasibility study phase of the project.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Officials have determined in the draft feasibility study for
4 the Rock Creek-Keefer Slough Flood Control Project that the
5 impacts of flooding can be reduced through the construction of this
6 properly designed project, which carefully balances flood control
7 and environmental issues, and provides high-quality,
8 low-maintenance flood control facilities that may be coupled with
9 recreation and environmental restoration.

10 (b) The management of this project, in accordance with the
11 operation and maintenance manual procedures prepared as a part
12 of this project, will provide continued maintenance of the flood
13 control facilities while ensuring the environmental aspects of the
14 project are maintained.

15 (c) The project incorporates procedures and principles of flood
16 plain management, including, but not limited to, features that
17 substantially reduce potential flood damages to existing
18 residences, businesses, agriculture, and interstate commerce.

19 (d) This project qualifies for funding as a “Section 103
20 Project” and is supported by Congress and the Chief Engineer of
21 the United States Army Corps of Engineers.

22 (e) The total annual benefit of providing protection from flood
23 damages exceeds the annual cost of the project allocable to flood
24 management. The project has been designed to produce the
25 greatest feasible reduction in flood damages in the most efficient
26 manner practicable, with due regard for environmental and
27 recreational considerations, and local economic conditions.

28 (f) The County of Butte ~~benefiting from the project~~, *benefiting*
29 *from the project*, has enacted ordinances which are consistent in all
30 respects with the National Flood Insurance Program’s (NFIP)
31 model flood plain management ordinance and exceed NFIP’s
32 requirements for elevation of the lowest floor above the designated
33 flood plain.

1 (g) The proposed mitigation measures restore existing habitat
2 and related environmental aspects while exceeding mitigation
3 requirements, as set forth in the California Environmental Quality
4 Act and the National Environmental Policy Act.

5 (h) Multipurpose objectives have been incorporated into the
6 project including, but not limited to, flood control, habitat
7 restoration, fisheries restoration and protection, environmental
8 education facilities and recreation facilities, while maintaining the
9 neighborhood qualities of the areas being served.

10 (i) A team comprised of the United States Army Corps of
11 Engineers, United States Fish and Wildlife Service, National
12 Marine Fisheries Service, Department of Fish and Game,
13 Department of Water Resources, the Department of
14 Transportation, and employees and officials of Butte County has
15 determined that the project is feasible.

16 (j) The total annual benefit of providing protection from flood
17 damages exceeds the annual cost of the project allocable to flood
18 management.

19 (k) The Legislature also finds that the project increases the
20 level of flood protection for State Highway Route 99 and the Chico
21 Municipal Airport, which are vital state transportation facilities.

22 (l) The project develops or enhances recreational opportunities
23 that include, but are not limited to, picnic areas, foot and bike
24 paths, and environmental education areas. It provides public
25 access to strategic environmental education and multiuse facilities
26 within the project, except in those areas where public access would
27 constitute a threat to public safety or habitat or would constitute a
28 trespass on private property.

29 (m) Pursuant to subdivision (b) of Section 12582.7 of the Water
30 Code, the Reclamation Board has submitted recommendations
31 with regard to increased cost sharing for this project, considering
32 the project will aid a county with documented impacts. The
33 Reclamation Board has determined that the individual and
34 cumulative hydraulic impacts of the project, as well as the
35 environmental impacts, have been mitigated.

36 SEC. 2. Section 12657 of the Water Code is amended to read:

37 12657. (a) Except as otherwise provided in Chapter 1
38 (commencing with Section 12570) and this chapter, the
39 Reclamation Board shall give assurances satisfactory to the
40 Secretary of the Army that the local cooperation, required by

1 Section 3 of the act of Congress approved December 22, 1944 (P.L.
2 534, 78th Congress, Second Session), Section 2 of the act of
3 Congress approved August 18, 1941 (P.L. 228, 78th Congress,
4 First Session), and Section 103 of the act of Congress approved
5 November 17, 1986 (P.L. 99-662, 99th Congress, Second Session)
6 will be furnished by the state in connection with the flood control
7 projects authorized and adopted in Sections 12648, 12648.1,
8 12648.2, 12648.3, 12648.4, 12648.5, 12648.6, 12648.7, 12649.1,
9 12650, 12651, 12652, 12654, 12656.5, 12661.2, 12661.5, 12666,
10 12667, 12670.2, 12670.7, 12670.10, 12670.14, 12670.20, and
11 12670.81 and on any flood control projects on any stream flowing
12 into or in the Sacramento Valley or the San Joaquin Valley
13 heretofore or hereafter approved and authorized by Congress.

14 (b) Assurances provided pursuant to subdivision (a) shall not
15 be made until the local agency, by binding agreement with the
16 Reclamation Board, has agreed to assume all obligations under
17 Sections 12585 to 12585.5, inclusive.

18 SEC. 3. Section 12670.81 is added to the Water Code, to read:

19 12670.81. (a) The Rock Creek-Keefer Slough Flood Control
20 Project in Butte County is adopted and authorized substantially in
21 accordance with the recommendations of the Chief of Engineers
22 of the United States Army Corps of Engineers, in the report
23 entitled "Draft Detailed Project Report, Rock Creek-Keefer
24 Slough, Butte County, California," dated November 2000, at an
25 estimated cost to the state of the sum that may be appropriated by
26 the Legislature for state cooperation, upon the recommendation
27 and advice of the Reclamation Board.

28 (b) The agencies that are parties to the Rock Creek-Keefer
29 Slough Flood Control Project, including Butte County, may, in
30 lieu of the Reclamation Board, provide assurances satisfactory to
31 the Secretary of the Army that the nonfederal cooperation required
32 by federal law will be furnished in connection with the project.

33 (c) The agencies that are parties to the Rock Creek-Keefer
34 Slough Flood Control Project, including Butte County, in
35 conjunction with the Department of the Army, may, in lieu of the
36 Reclamation Board, carry out the design and construction of the
37 project described in subdivision (a) and may make modifications
38 and amendments as necessary to carry out the project for the
39 purposes of Chapter 1 (commencing with Section 12570) and this
40 chapter.

(d) Notwithstanding subdivision (e) of Section 12585.5, the nonfederal engineering costs and the nonfederal design costs required by subsections (b) and (c) of Section 2215 of Title 33 of the United States Code, with regard to the project described in subdivision (a), are eligible for reimbursement by the state before federal and state authorization and before the appropriation of construction funds by Congress.

(e) It is the intent of the Legislature that funds shall be appropriated for the project in the annual Budget Act.

(f) The Reclamation Board shall, to the extent funds are appropriated for purposes of this section, pay 70 percent of the nonfederal capital costs required by Section 2213 of Title 33 of the United States Code.

(g) The Reclamation Board shall, to the extent funds are appropriated for purposes of this section, pay 70 percent of the nonfederal planning and engineering costs required by subsection (b) of Section 2215 of Title 33 of the United States Code and the nonfederal design costs required by subsection (c) of Section 2215 of Title 33 of the United States Code.

(h) The Reclamation Board shall, to the extent funds are appropriated for purposes of this section, pay 70 percent of the nonfederal capital costs of the recreation and fish and wildlife enhancement features of the project.

SEC. 4. *The sum of three hundred sixty-four thousand five hundred dollars (\$364,500) is hereby appropriated from the General Fund to the Department of Water Resources to pay the nonfederal share of the feasibility study phase for the Rock Creek-Keefer Slough Flood Control Project.*

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to adopt and to provide authorization for the Rock Creek-Keefer Slough Flood Control Project so that the design and construction of the project can be accomplished at the earliest possible date, for the purposes of preventing a reoccurrence of flood damage to existing residences, businesses, and agriculture, which damage has exceeded eighty-nine million dollars

- 1 (\$89,000,000) since 1995, it is necessary that this act take effect
- 2 immediately.

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